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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

EFG BANK S.A., f/k/a EFG Private Bank S.A., EFG
BANK (MONACO) S.A.M., f/k/a EFG Eurofinancière
d'Investissements S.A.M., EFG BANK & TRUST
(BAHAMAS) LIMITED, as successor-in-interest to
Banco Atlántico (Bahamas) Bank & Trust Limited,

Defendants.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 12-01690 (CGM)

**DECLARATION OF SHAWN P.
HOUGH IN OPPOSITION TO
DEFENDANTS' MOTION TO
DISMISS TRUSTEE'S AMENDED
COMPLAINT**

I, Shawn P. Hough, pursuant to 28 U.S.C. § 1746, declare the following:

1. I am a Partner with the law firm of Baker & Hostetler LLP, counsel to Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III (“SIPA”), and the chapter 7 estate of Bernard L. Madoff.

2. I submit this Declaration in opposition to Defendants’ Motion to Dismiss the Trustee’s Amended Complaint.

3. Although several documents attached to this Declaration are stamped confidential, the Trustee’s records indicate that the producing parties have de-designated the documents as not confidential under the Litigation Protective Order entered in this liquidation. *See SIPC v. BLMIS (In re BLMIS)*, Adv. Pro. No. 08-01789 (CGM) (Bankr. S.D.N.Y. June 6, 2011 & Sept. 17, 2013), ECF Nos. 4137 & 5474. In addition, all personal identifying information has been redacted.

4. EFG Bank & Trust (Bahamas) Limited (“EFG Bahamas”), is a Bahamian company that in or around 2005 or 2006 acquired Banco Atlántico (Bahamas) Bank & Trust Limited’s (“Banco Atlántico”) private banking business, including its investments in Fairfield Sentry Limited (“Fairfield Sentry”) and Fairfield Sigma Limited (“Fairfield Sigma”). Based on documents produced to the Trustee, EFG Bahamas frequently contacted Fairfield Greenwich Group (“FGG”) representatives in New York regarding its New York-based investments in Fairfield Sentry.

5. Attached hereto as **Exhibit A** is a true and correct copy of e-mails dated May 22 through 24, 2006, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05576042). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

6. Attached hereto as **Exhibit B** is a true and correct copy of e-mails dated January 16 through 18, 2007, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05589801). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

7. Attached hereto as **Exhibit C** is a true and correct copy of an e-mail dated May 25, 2007, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05567517). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

8. Attached hereto as **Exhibit D** is a true and correct copy of an e-mail dated September 18, 2007, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05571727). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

9. Attached hereto as **Exhibit E** is a true and correct copy of an e-mail dated April 23, 2008, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05585948). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

10. Attached hereto as **Exhibit F** is a true and correct copy of an e-mail dated June 19, 2008, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05584532). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

11. Attached hereto as **Exhibit G** is a true and correct copy of an e-mail dated July 22, 2008, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield

Sentry (FG-05583616). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

12. Attached hereto as **Exhibit H** is a true and correct copy of e-mails dated September 12, 2006, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05579566). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

13. Attached hereto as **Exhibit I** is a true and correct copy of an e-mail dated February 5, 2007, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05589293). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

14. Attached hereto as **Exhibit J** is a true and correct copy of an e-mail dated February 6, 2008, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry. (FG-05608370). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

15. Attached hereto as **Exhibit K** is a true and correct copy of an e-mail dated March 18, 2008, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05604569). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

16. Attached hereto as **Exhibit L** is a true and correct copy of an e-mail dated October 6, 2008, documenting contact between FGG in New York and EFG Bahamas regarding Fairfield Sentry (FG-05599063). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

17. EFG Bank (Monaco) S.A.M., formerly known as EFG Eurofinancière d'Investissements S.A.M. ("EFG Monaco"), is a *société anonyme* incorporated and organized under the laws of Monaco that invested in Fairfield Sentry. Based on documents produced to the Trustee, EFG Monaco frequently contacted FGG representatives in New York related to its New York-based investments in Fairfield Sentry.

18. Attached hereto as **Exhibit M** is a true and correct copy of BLMIS's visitor log for certain dates in 2006 through 2009. This visitor log indicates that George Catsiapis, managing director of EFG Monaco, visited BLMIS's office on May 21, 2008 (CBRSAA0000001, CBRSAA0000064). These documents were produced to the Trustee in response to a subpoena issued to CBRE.

19. Attached hereto as **Exhibit N** is a true and correct copy of a brochure for the September 2008 Monaco High-Net-Worth & Institutional Investor Symposium on High-Performance Investing, sponsored by EFG Monaco. The brochure profiles EFG Monaco and its FUNDEX Department (MAXAM-SIPC0152389 at 92). This document was produced to the Trustee in response to a subpoena issued to Maxam Absolute Return Fund LP.

20. Attached hereto as **Exhibit O** is a true and correct copy of an e-mail dated May 16, 2003, documenting contact between FGG in New York and EFG Monaco and efforts to have George Catsiapis of EFG Monaco visit FGG in New York (FG-02190887). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

21. Attached hereto as **Exhibit P** is a true and correct copy of an e-mail dated January 26, 2005, documenting contact between FGG in New York and EFG Monaco and EFG Monaco's interest in subscribing into Fairfield Sentry (FG-05477336). This document was

produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

22. Attached hereto as **Exhibit Q** is a true and correct copy of an e-mail dated January 31, 2005, documenting Sallie Graham's role as Head of EFG Monaco's FUNDEX Department (KING_000299145). This document was produced to the Trustee in response to a subpoena issued to the Joint Liquidators of the Kingate Funds.

23. Attached hereto as **Exhibit R** is a true and correct copy of e-mails dated January 26 through 31, 2005, documenting contact between FGG in New York and EFG Monaco and an EFG Monaco subscription into Fairfield Sentry using an account at JPMorgan Chase Bank (SECSEV0740090). This document was produced to the Trustee in response to a subpoena issued to the Securities and Exchange Commission and FGG.

24. Attached hereto as **Exhibit S** is a true and correct copy of e-mails dated August 23, 2006, and September 5, 2006, documenting contact between FGG in New York and EFG Monaco regarding Fairfield Sentry (FG-05320707). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

25. Attached hereto as **Exhibit T** is a true and correct copy of e-mails dated November 2 through 3, 2006, documenting contact between FGG in New York and EFG Monaco (FG-05557909). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

26. Attached hereto as **Exhibit U** is a true and correct copy of an e-mail dated November 6, 2006, documenting contact between FGG in New York and EFG Monaco regarding Fairfield Sentry (FG-05557887). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

27. Attached hereto as **Exhibit V** is a true and correct copy of an e-mail dated February 6, 2007, documenting contact between FGG in New York and EFG Monaco regarding Fairfield Sentry (FG-05588520). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

28. Attached hereto as **Exhibit W** is a true and correct copy of an e-mail dated April 8, 2008, documenting contact between FGG in New York and EFG Monaco regarding Fairfield Sentry (FG-05603876). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

29. Attached hereto as **Exhibit X** is a true and correct copy of a bank transfer request dated September 15, 2005, documenting a redemption out of Fairfield Sentry by EFG Monaco with deposit into a New York-based bank account at HSBC Bank USA (ANWAR-C-ESI-00572515). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

30. Attached hereto as **Exhibit Y** is a true and correct copy of a Fairfield Sentry short form subscription agreement dated April 28, 2008, documenting a subscription into Fairfield Sentry by EFG Monaco (ANWAR-CFSE-00109275). This document was produced to the Trustee in response to a subpoena issued to FGG and its subsidiaries and employees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: February 13, 2023
New York, New York

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